



**SALINE COUNTY PLANNING BOARD
MINUTES SEPTEMBER 13, 2018**

**Meeting Called to Order at the SALINE COUNTY COURTHOUSE, COURTROOM #1
AT 5:30 P.M.**

ROLL CALL:

Layne Penfield

Randy Ives

Kevin Barham

Sherry Spann

Justin McCauley

NON-VOTING:

- Audrey Villegas, Planning Board Correspondent
- JR Walters-Quorum Court
- Renee Richards-Addressing Coordinator
- John Wofford-Engineer
- Clay Ford-County Attorney

PRESENTATION OF MINUTES: August 9, 2018; Motion to approve by Sherry, second by Justin and approved by all

NEW BUSINESS

• **Springdale Manor, Final**

-Jonathan Hope

Will McFadden is here to present the plat on behalf of Jonathan Hope. All of John's comments were addressed, Health Department approval, maintenance bond required. Chairman asked if any audience members were here for this development and none were. Almost done paving as of the meeting day, had maintenance bond ready for filing. Motion to approve by Randy, second by Justin and approved by all.

• **Timber View Estates**

-Jonathan Hope

Will McFadden is here to present the plat on behalf of Jonathan Hope. Going from one lot to three lots, John's comments were addressed. Health Department had not looked at these as of the meeting date, but is in the process of approval via Meinco letter. The Chairman asked if anyone in the audience was here for this development and Mr. Matthew Weaver (221 West Colonel Glenn) and Mr. Michael Childers were there. They were confused because they had received a copy of the development layout and it was different than what was sent to them in the notification process. The layout was changed due to septic issues after the notifications were sent. When the lot owners purchased their lots the covenants that they were given stated one structure per lot. Will stated this was not in a subdivision that he was aware of. Randy asked what the name of the subdivision was and the lot owner did not know. Mr. Weaver presented the Board a copy of a survey and the covenants. Five (5) lot owners of the eight (8) lot owners are opposing the lot split. Clay stated that Jonathan Hope is trying to divide that lot into a subdivision, what Mr. Weaver has provided is a survey that has not been filed, therefore it is not a plat and not of record. According to Edge this is not in a subdivision, but staff does not know for



sure. Clay suggests that this be tabled for a month, so staff can do research to determine what the situation is. Mr. Weaver stated that whenever he bought the land he specifically asked if the land could be subdivided and he was told no by the realtors. Motion to table Timber View Estates by Randy, second by Justin and approved by all.

- **Fairview Estates Lot 10R, Replat**

-Jonathan Hope

Will McFadden is presenting the plat on behalf of Jonathan Hope. They are combining ten (10) lots into one (1) lot. Chairman asked if there were any audience members here for the replat, Mr. Woody Wilson (8149 Mae Drive) and Mr. Wilson would like to know why this is happening after so many years. Will explained that one person bought all ten (10) lots and wants to combine them. Mr. Wilson stated he has four (4) lots that will not pass a perc. test individually and wanted to make sure the Board was aware that it has low ground. He wanted to know that if this goes through if he could combine his lots because he would like to and told him he could. And since this is over three (3) acres there is no concern about the septic. Motion to approve by Justin, second by Sherry and approved by all.

- **River Ridge Landing, Preliminary**

-Eric Vinyard

Eric Vinyard is presenting the plat for River Ridge Landing on River Ridge Road, approximately 29 lots with minimum square footage of 2,200 square foot for housing and strictly residential. John had a question about the site distance of how River Mountain Drive comes out on to River Ridge Road and Mr. Vinyard stated that was the best situation for the entrance. John made sure that he was aware that engineering and drainage plans would have to be submitted as well. They have done preliminary soil tests and they have passed so far. Raeburn Hughes (2326 River Ridge Road) was concerned how they would be cutting the trees; Mr. Vinyard said they are not clear cutting the trees, they are doing it per lot and then they will come out and retest the lot for septic. She also asked about an oak tree that she assumes they will be cutting down, but would like it to stay if possible. Mr. Ed Harrison (6014 Harrison Place) had issue with the septic being tested, he states he lives across the street and had difficult time getting his perc tests approved since he had issue as well. His biggest concern was with drainage as there is already a flooding issue out there when there are heavy rains. Mr. Vinyard informed Mr. Harrison that issue will be looked into when the engineers and engineering plans start. Layne explained that this is a preliminary to allow him to go forward with the process and start his engineering. Eric Harrison (12522 Vanetta Lane) has improved his road so as not to wash out when it floods and is concerned about drainage the development will create and wants a retention pond on the development. Matthew Vinyard is the engineer for this development. John explained that the county does not necessarily require a retention pond, but if Mr. Vinyard decides to have retention pond then that is fine. Melissa Helmich (7338 W. Shadow Ridge) asked if it would be gated and they have not determined that yet; lots 1-8 will access off of River Ridge road. Asked what the estimate would be about price per acre, Chairman stated those types of questions need to be asked outside of the meeting. Asked if there are any plans to bring cable or internet to the neighborhood, not sure the facilities will run that far. Asked how small the lots would be on the eastern side (lot 10/11), there are easement lines that gives a buffer. Motion to approve by Justin, second by Sherry and approved by all.



- **New Construction Cell Tower, Mt. Ida -BRT Group**

Tom Holiman is here as a representative of BRT Group and they are wanting to construct a new tower off of Mt. Ida Road. Mr. Cliff McKinney and Jim Grice are here as well as legal representation. Mr. McKinney states they are meeting the standards of the application and that the application should be approved. This group is not a mobile operator, they provide the location and the tower that the mobile operators can operate on and states the co-location does not apply in this circumstance. Mr. Grice spoke on the Telecommunications Act and that it enhances competition. Both companies are real estate investment trust that lease their property to another to receive income from their properties. They are attempting to make available tower location for companies to operate antennae arrays. Mr. Grice argues that the ordinance states that as far as co-locations that the applicant make a reasonable and good faith effort to co-locate their antenna arrays on existing towers or support structures, but they are not in the antenna array business they are trying to market their real estate for mobile carriers to put their antenna arrays on. Mr. Grice states this application is fully complete and fully compliant and should be approved by the Board. Mr. Brad Walker is here to represent SBA Communications who are opposing the tower construction. He states the ordinance sets a good faith standard for cell towers. Mr. Walker states that BRT should demonstrate a good faith effort to co-locate on the tower that is already present and that there has been no communication between the tower companies, therefore there is no representation and takes it out of Administrative review. The requirement for a statement that the owners of towers in proximity for co-location have been contacted and asked about the possibility of co-location which he states they did not do, but did explain why such contact was not made will be satisfactory if it indicates that a particular tower was obviously unsatisfactory for technological or safety reason. Argues that if they do not know who will be leasing space on the tower is it really a good faith effort on the Board's part to let them put it up if there will be empty space. BRT Group stated that the tower would fail structurally if they put their equipment on it and SBA looked at the plans and states that the current standing tower is at its capacity, structurally sound in foundation. T-Mobile could swap their equipment and add some brackets during the process to keep it structurally sound or the current equipment can stay and add new equipment and SBA would take on the cost to make the tower structurally sound to accommodate. He also states that the highway is supported on the current tower and can be accommodated to support the needs. Mr. Grice wanted to reiterate that this is to help our community adapt to future needs and development of technology. A new tower is needed due to contemporary new designs, upgrades, and standards at the top of the market for a wave of more robust equipment and needs. Chairman asked if Clay had any comments and he had no questions but he wanted to inform the Board that it seems that BRT's argument is that co-location does not apply to BRT's application because they are not dealing with any antennae array's, they want to construct a tower and a tower cannot be co-located on another tower. SBA's retort to that is that while that statement is technically correct, they are constructing the tower to put an antenna array on the tower and they have not in reasonable, good faith tried to co-locate with their own tower. Clay advised to keep in mind, even if you do think this is a co-location argument there are other things to take



into consideration with that. He would remind the Board is the FCC does oversee these type things and what we cannot do as a Board is, "...shall not unreasonably discriminate among providers of functioning equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. Any indecision by state or local government in a decision to deny the request shall be in writing and supported by substantial evidence". In Clay's opinion if you deny the request you are essentially killing one competitor in the market and could possibly be against this law. Mr. Walker was allowed to speak again and commented that they have a lot of resources and that if they want to build new towers in the growing areas then great, but if their business model is to go around and look at existing towers and see if they can make a deal with the people on the tower then they are not loving our community. In reference to the FCC Act, if providers are provided access to the market that is one thing, he believes a better reading of the ordinance he does not know if the county would allow someone to come in and build a tower if they were not a provider; you cannot take our airspace and stick a tower up there if you do not intend to put an antennae on it. Randy stated the ordinance was not designed to protect one cell tower company from another or stop business; it was more to deal with the influx of cell towers and concerned citizens. When the ordinance was written it was due to the fact that there was a lot of opposition coming in, tower companies were erecting their own towers and the intent of the ordinance was if there was a new tower proposed and a lot of opposition in the area to try to get providers to co-locate with each other. In Randy's opinion it is not the Board's right to turn down BRT Group's tower to protect SBA. Motion to approve by Justin, second by Randy and approved by all.

OLD BUSINESS

OPEN DISCUSSION

MEETING ADJOURNMENT

- Justin made a motion to adjourn, second by Randy and approved by all. Adjourn 7:30 pm.